

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 1035.

***United Church in Papua, New Guinea and the Solomon Islands
Incorporation.***

GENERAL ANNOTATION.

ADMINISTRATION.

Since this Act is really of the nature of a private Act, and since, for example, no need was seen in the fairly comprehensive allocation of responsibilities for the administration of legislation published in National Gazette No. G15 of 13 February 1976 to allocate responsibility for this and similar Acts, there seems to be no point in attempting to discuss the administration of this Chapter. Under Section 148(2) of the Constitution, political responsibility would seem to be vested in the Prime Minister.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 1035.

*United Church in Papua, New Guinea and the Solomon Islands
Incorporation Act.*

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 1035.

United Church in Papua, New Guinea and the Solomon Islands Incorporation Act.

Being an Act to incorporate the United Church in Papua, New Guinea and the Solomon Islands, and for related purposes.

PART I.—PRELIMINARY.

1. Interpretation.

In this Act, unless the contrary intention appears—

“the Assembly” means the highest governing body of the Church duly constituted by the Constitution of the Church;

“the Board” means the United Church Property Board established by Section 3;

“the Church” means The United Church in Papua, New Guinea and the Solomon Islands duly constituted by the Deed of Union dated 19 January 1968, and entered into by duly appointed representatives of the Methodist Church of Australasia, the Methodist Church of New Zealand, the Papua Ekalesia and the United Church of North Australia, and governed according to its Basis of Union, Constitution and Rules and Regulations;

“Church instrumentality” means any congregation, circuit, region or department of the Church in Papua New Guinea, and includes—

(a) any society, auxiliary or other committee of the Church; and

(b) any school, college, hospital or other religious, charitable, philanthropic, educational, social, commercial or professional institution, organization, enterprise, undertaking or other activity conducted or controlled by the Church or by any congregation, circuit, region or department of the Church; and

(c) any fund, trust or foundation created and controlled or administered by the Church or by any congregation, circuit, region or department of the Church;

“Church property” means any property vested in the Church;

“the corporation” means the corporation constituted by this Act;

“The Incorporated Kwato Extension Association” means The Incorporated Kwato Extension Association, a body corporate in England and registered as a foreign company under the *Companies Act*;

“the Methodist Overseas-Missions Trust Association” means the Methodist Overseas-Missions Trust Association, a company registered as a foreign company under the *Companies Act* in which certain property was vested by the pre-Independence *Methodist Overseas-Missions Trust Association Act 1958*;

“the Methodist Overseas Missions (New Zealand) Trust Association” means the Methodist Overseas Missions (New Zealand) Trust Association, a company registered as a foreign company under the *Companies Act*;

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"the Papua Ekalesia Property Trust" means the body corporate constituted under and incorporated by the pre-Independence *The Papua Ekalesia Property Trust Act 1966*;

"property" includes any estate, right, title and interest, legal or equitable, in or to any property;

"Region" means a Region duly constituted by the Assembly;

"Regional Synod" means the Synod for a Region;

"The United Church (Papua and New Guinea)" means the body corporate constituted under and incorporated by the pre-Independence *United Church (Papua and New Guinea) Act 1965*.

PART II.—INCORPORATION OF THE UNITED CHURCH IN PAPUA, NEW GUINEA AND THE SOLOMON ISLANDS.

2. Incorporation.

(1) The Church is a corporation by the name of "The United Church in Papua, New Guinea and the Solomon Islands".

(2) The corporation—

(a) has perpetual succession; and

(b) shall have a seal; and

(c) has power to acquire, hold, manage and control, and may grant, transfer, mortgage, demise, sell, surrender, dispose of, create trusts or create or reserve easements in or over or otherwise deal with property of any kind; and

(d) may sue and be sued in its corporate name; and

(e) may do and suffer all such other acts and things as corporations may by law do and suffer.

3. United Church Property Board.

Church property shall be managed and administered on behalf of the Church by a board to be known as the "United Church Property Board" and the Board may exercise all the powers of the Church in relation thereto.

4. Constitution of the Board.

(1) The Board shall consist of—

(a) the Moderator for the time being of the Church; and

(b) the Secretary for the time being of the Assembly; and

(c) five persons appointed by the Assembly.

(2) If by any Assembly the same person is appointed to occupy both of the offices referred to in Subsection (1)(a) and (b), or if at any time no person is appointed to either of such offices, the number of persons to be appointed under Subsection (1)(c) shall be increased by one or two, as the case requires.

(3) At the end of each Assembly one half of the members of the Board, other than the Moderator and Secretary, or if their number is not two or a multiple of two, then the number nearest one half, shall retire from office.

(4) A retiring member of the Board is eligible for reappointment.

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(5) The members of the Board to retire at the end of each Assembly in accordance with Subsection (3) are those who have been longest in office, but as between members whose appointment became effective on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

(6) The Assembly at the end of which a member of the Board is due so to retire may fill the vacated office and, in default, the retiring member shall, if offering himself for reappointment, be deemed to have been reappointed, unless at that Assembly it is expressly resolved not to fill the vacated office or unless a resolution for the reappointment of that member is put to the Assembly and lost.

5. Casual vacancies.

The office of a member of the Board shall be deemed to have become vacant if the member—

- (a) dies; or
- (b) resigns his membership by notice in writing to the Board; or
- (c) becomes bankrupt or makes an arrangement or composition with his creditors generally; or
- (d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the *Public Health Act*; or
- (e) is removed from membership of the Board by resolution of the Assembly.

6. Appointments to vacancies.

(1) The continuing or surviving members of the Board may act notwithstanding any vacancy or vacancies in their number.

(2) The continuing or surviving members may fill a casual vacancy in the membership of the Board, but need not do so unless the number of continuing members is less than five.

(3) A person appointed under Subsection (2) holds office until the end of the Assembly next after his appointment, or until such earlier date as the continuing or surviving members of the Board fix in making the appointment.

7. Procedures of the Board.

(1) The Board may regulate its proceedings as it thinks proper, and may appoint a chairman and such officers as it thinks necessary for the proper administration of affairs relating to Church property.

(2) Three members are a quorum for a meeting of the Board.

(3) All questions arising at a meeting of the Board shall be decided by a majority of the votes of the members of the Board present and voting, and in the event of an equality of votes the chairman has a casting, as well as a deliberative, vote.

8. Seal of the corporation.

(1) The seal of the corporation shall not be affixed to an instrument except in pursuance of a resolution passed at a meeting of the Board.

(2) An instrument to which the seal is affixed shall be signed by not less than two members of the Board, and no person shall be concerned to inquire whether the persons signing it are duly appointed members of the Board.

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PART III.—VESTING OF CHURCH PROPERTY.

9. Devises, gifts, etc., to Church.

(1) Where by a will, deed or other document or instrument any property—

(a) has been or shall be devised, bequeathed, given, granted, released, conveyed, transferred, assigned or appointed to, or has been or shall be declared or directed to be held on trust for or for the benefit of—

(i) the Church; or

(ii) a Church instrumentality; or

(iii) in respect of the work of the Church in the country—

(A) the Methodist Overseas Missions Trust Association; or

(B) the Methodist Overseas Missions (New Zealand) Trust Association; or

(C) the Papua Ekalesia Property Trust; or

(D) the United Church (Papua and New Guinea); or

(E) The Incorporated Kwato Extension Association; or

(b) has been or shall be devised, bequeathed, given, granted, released, conveyed, transferred, assigned or appointed or has or shall be declared or directed to be held on trust for the religious, social, educational or charitable work of the Church,

the will, deed or other document or instrument takes effect as if the corporation had been named in it as devisee, legatee, donee, grantee, releasee, conveyee, transferee, assignee, appointee or beneficiary, as the case requires.

(2) Where any property would, but for this Act, be receivable or recoverable by or payable to—

(a) a Church instrumentality; or

(b) an officer or official of the Church for the benefit of, or on behalf of, the Church; or

(c) in respect of the work of the Church in the country—a body referred to in Subsection (1)(a)(iii),

the property is receivable or recoverable by, or is payable to, the corporation.

(3) Where any property would, but for this Act, become vested in—

(a) a Church instrumentality; or

(b) a body referred to in Subsection (1)(a)(iii), for or on behalf of the Church in the country; or

(c) any person for or on behalf of, or in trust for—

(i) the Church; or

(ii) in respect of the work of the Church in the country—a body referred to in Subsection (1)(a)(iii),

otherwise than in a manner set out in Subsection (1) or (2), the property vests in the corporation.

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(4) Notwithstanding anything in any will, deed, document or instrument, where any property passes to or vests in the corporation by virtue of Subsection (1), (2) or (3), an acknowledgment or receipt of the corporation—

(a) executed under its seal; or

(b) in writing signed by—

(i) two persons purporting to be members of the Board; or

(ii) a person duly authorized—

(A) in writing by two persons purporting to be members of the Board; or

(B) by a power of attorney,

to receive the property,

is a sufficient discharge to the person liable to pay, deliver, grant, release, convey, transfer, assign or otherwise dispose of the property.

(5) Where property vests in or is received or recovered by or paid to the corporation under Subsection (1), (2) or (3), the property shall be held and dealt with by the corporation on and subject to the trusts declared and conditions made concerning it in any relevant will, deed or other document or instrument or at the time of receipt, recovery, payment or vesting, so far as they are valid and capable of taking effect and are not varied under this Act.

10. Holding of Church property.

Subject to Section 9, the corporation shall hold all Church property on trust to use and appropriate it, or permit the use and appropriation of it, for the purposes of the Church, including the religious, charitable, philanthropic, educational, social and commercial purposes and activities of any Church instrumentality.

PART IV.—VARIATION OF TRUSTS.

11. Variation of trusts.

Where by virtue of this Act or otherwise property is vested in the corporation on trust for or to be applied for some particular purpose of the Church in the country, and—

(a) it is impossible, impracticable or inexpedient to carry out the purpose; or

(b) the amount available is inadequate to carry out the purpose; or

(c) the purpose has already been effected; or

(d) the purpose is illegal, useless or uncertain; or

(e) the property or any income that has accrued or will accrue from the property is more than is necessary for the purpose,

then notwithstanding any rule of law or equity to the contrary the Assembly may, on application by the Board or a Church instrumentality made in such manner as the Assembly prescribes, resolve that the whole or any part of the property or of the income from the property, or of the proceeds of the sale of the property, (as the case may be) be applied to some other purpose of the Church or to a combination of several of such purposes in such manner as it directs.

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12. Extension of trusts, etc.

(1) In this section, "prescribed" means prescribed by the Assembly.

(2) Where—

(a) by virtue of this Act or otherwise property is vested in the corporation on trust for, or to be applied in or for, any of the particular purposes of the Church or of a Church instrumentality; and

(b) the administration of the property or the carrying out of the trust can be facilitated—

(i) by extending or varying the powers of the corporation as the trustee;
or

(ii) by prescribing or varying the mode of administering the trust,

the Assembly may, on application by the Board or a Church instrumentality made in the prescribed manner resolve that the powers of the Church as the trustee shall be extended or varied or the mode of administering the trust be prescribed or varied, in such manner as it directs.

13. Effect of resolutions under Section 11 or 12.

(1) Where the Assembly makes a resolution in accordance with Section 11, the property to which the resolution refers is, subject to the trusts mentioned in the resolution, freed and discharged from the trusts to which it was subject before the passing of the resolution.

(2) Where the Assembly makes a resolution in accordance with Section 12, the Board, acting on behalf of the corporation has, in relation to the property referred to in the resolution such powers and authorities, and may administer the property in such manner, as is provided for in the resolution.

PART V.—GENERAL.

14. Powers of corporation.

The powers of the corporation relating to property may be exercised for and on its behalf by the Board subject to the control and direction of the Assembly, and those powers include power in the name of the corporation—

(a) to purchase, take on lease, hire or acquire by gift, devise, bequest, exchange or otherwise, any property; and

(b) to apply to the proper authorities for the grant to the corporation of any land or any estate, interest, right or privilege in land, and on any conditions; and

(c) to act in relation to any compulsory acquisition or dedication of property and to make claims for compensation in respect of the acquisition or dedication, and to agree and settle such claims, for such consideration, and on and subject to such terms and conditions, as seem to it desirable; and

(d) to enter into arrangements with any government or authority, (municipal, local or otherwise) that seem conducive to the trusts on which any property is held; and

(e) to apply for, secure, acquire by grant, legislative enactment, assignment, transfer, purchase or otherwise, and to exercise, carry out and enjoy, any charter, licence, power, authority, franchise, concession, right or privilege that

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any government or authority or any corporation or other public body is empowered to grant, and to pay for, aid in and contribute towards carrying it into effect, and to appropriate any of the corporation's assets to defray the necessary costs, charges and expenses; and

- (f) to apply for, promote and obtain any statute, order, regulation or other authorization or enactment that seems calculated directly or indirectly to benefit the Church, and to oppose any bills, proceedings or applications that seem calculated directly or indirectly to prejudice the work and purposes of the Church; and
- (g) to establish and support, or to aid in the establishment and support of, associations, institutions, funds, trusts and conveniences calculated to benefit employees or past employees, or the dependants or connexions of any such persons, to grant pensions and allowances, and to make payments towards insurance; and
- (h) to borrow or raise or secure the payment of money in such manner as the corporation thinks proper, to secure such money or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the corporation in any way, and to purchase, redeem and pay off any such securities; and
- (i) to take or hold mortgages, liens and charges to secure payment of the purchase price or any part of the purchase price of any Church property sold by the corporation, or any money due to the corporation; and
- (j) to enter into partnership or into an arrangement for sharing of income, union of interest, co-operation, joint adventure or reciprocal concession, or otherwise, with any person carrying on or engaged in or about to carry on or engage in, any business or transaction that is capable of being conducted so as directly or indirectly to benefit and further the purposes and work of the Church; and
- (k) to carry on any business that seems to the Board capable of being conveniently carried on by the Church and calculated directly or indirectly to benefit and further the purposes and work of the Church; and
- (l) to adopt such means of making known and advertising the purposes and work of the Church and any business carried on by the Church as seem expedient; and
- (m) in relation to any Church property vested in it—
 - (i) to improve, manage, develop, turn to account or otherwise deal with and dispose of all or any of the property; and
 - (ii) to sell a thing, property or any part of it, together or in parcels, by public auction or private contract, for cash or on credit, or on such terms and subject to such conditions as the Board thinks advisable; and
 - (iii) to exchange the property or any part of it for other property; and
 - (iv) to transfer and assure the property when sold or exchanged or otherwise dealt with or disposed of to the purchaser or to the person taking it, freed and discharged from any trusts affecting it in the hands of the corporation; and

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- (v) to demise, let, hire or loan the property or any part or parts of it for such periods, at such rents and on such terms and conditions as the Board thinks advisable; and
- (vi) to mortgage the property or any part of it, or otherwise give security over it, and for the purpose of any such mortgage or security to assure the property to the mortgagee and his assigns freed and discharged from any trusts affecting it in the hands of the corporation; and
- (vii) to accept surrenders of leases on such terms and subject to such conditions as the Board thinks advisable; and
- (viii) to lend or advance money to any person, and to secure in any way the repayment of moneys lent or advanced to or the liabilities incurred by any person, and otherwise to assist any person; and
- (ix) to invest and deal with the money of the corporation not immediately required in such manner as the Board thinks proper and including, in addition to any powers of investment conferred on trustees by law, taking or otherwise acquiring and holding shares, stocks, debentures, debenture stock, notes or other securities of any company or incorporated body or association and units of any fixed or flexible trust, and depositing money with any such company, incorporated body or association; and
- (n) to draw, make, accept, endorse, sign, discount, execute and issue cheques, drafts, promissory notes, bills of exchange, bills of lading, warrants, debentures or other negotiable or transferable instruments; and
- (o) to appoint by instrument under the seal of the corporation, any person as the attorney of the corporation, generally or in respect of specified matters, and to act in any place, and all deeds signed by the attorney on behalf of the corporation and under his seal are binding on the corporation and have the same effect as if they were under the seal of the corporation; and
- (p) to do all or any of the things referred to in the preceding provisions of this section in—
 - (i) any part of the world; and
 - (ii) as principal, agent, trustee or otherwise; and
 - (iii) by or through trustees or agents or otherwise; and
 - (iv) alone or in conjunction with others; and
- (q) to procure the Church to be registered or legalized at such places outside the country as the Board thinks proper; and
- (r) for all or any of the purposes referred to in this section to sign, seal and execute all such transfers, contracts and other deeds, documents and instruments as are necessary; and
- (s) to do all such other things as are incidental or conducive to the purposes and work of the Church.

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15. Rules by the Assembly.

(1) The Assembly may make rules, not inconsistent with this Act or any other law, to provide for any matter relating to or affecting the management and administration of Church property and for—

(a) the regulation and control of the affairs and proceedings of the Board; and

(b) the exercise of powers—

(i) by the Board or by members of the Board; or

(ii) in the name and on behalf of the Board by a person who is not a member of the Board.

(2) Any such rule takes effect without being published, as from such date as the Assembly fixes.

(3) A certificate signed by the Moderator of the Church certifying that a rule contained in or attached to the certificate is a rule made under this Act, is conclusive evidence of the rule and of the due making and approval of it.

16. Execution of instruments, etc.

(1) A deed, instrument, contract or agreement relating to property or any matter that, if made or executed by a private person, would be by law required to be in writing under seal may be made on behalf of the corporation in writing under its seal.

(2) An instrument, contract or agreement relating to property or any matter that, if made by or between private persons, would be required to be in writing signed by the parties to be charged with it may be made on behalf of the corporation in writing by any person acting with its express or implied authority.

(3) A contract relating to property or any matter that, if made between private persons, would by law be valid although made by parol only and not reduced to writing may be made, varied or discharged by parol in the name of or on behalf of the corporation by any person acting with its express or implied authority.

(4) A contract that is entered into, or an instrument, contract or agreement that is signed, in relation to any Church property shall, if it is entered into or signed in accordance with the direction of the Board under this Act, be deemed to have been entered into or signed with the express authority of the Board.

17. Receipts, discharges, etc.

A release or other discharge under the seal of the corporation executed in accordance with this Act, or any other receipt—

(a) under the seal of the corporation; or

(b) in writing signed by—

(i) two persons purporting to be members of the Board; or

(ii) a person duly authorized—

(A) in writing by two persons purporting to be members of the Board; or

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(B) by a power of attorney,
to receive them,

that is given for any moneys—

- (c) raised on mortgage of any Church property; or
- (d) received by way of compensation for the resumption of any Church property;
or
- (e) otherwise payable to or receivable by the corporation,

is a sufficient discharge to a purchaser, mortgagee, lessee, person taking on exchange or other person paying rent or other money to the corporation, or to a person referred to in Paragraph (b)(ii), as the case may be, from all further liability to pay the moneys and from all liability to see to the application of the money.

18. Dealings with corporation generally.

(1) On a sale, mortgage, lease or other dealing purporting to be made by the corporation under or in pursuance of this Act—

- (a) the purchaser, mortgagee, lessee or other person dealing with the corporation; and
- (b) the Registrar of Titles, the State Solicitor or other person registering or certifying title,

is not concerned to see or inquire into the necessity or propriety of the sale, mortgage, lease or other dealing or the mode of exercise of the power, and is not affected by notice that the exercise of the power was unauthorized, irregular or improper.

(2) Notwithstanding any irregularity or impropriety in a sale, exchange, mortgage, lease or other dealing, a sale, exchange, mortgage, lease or other dealing purporting to be made by the corporation under a power conferred by this Act shall, as regards the purchaser, mortgagee, lessee or other person dealing with the corporation, be deemed to be within the powers of the corporation, and is valid accordingly.

19. Legal proceedings and service.

(1) The service of any legal process on the corporation may be effected by serving it on the Moderator of the Church or the Secretary of the Assembly, or on any other person authorized by the Board to accept service of it.

(2) Legal proceedings for ejection or eviction or otherwise relating to any Church property or to any contract or other matter arising out of the management or administration or development of any Church property may be brought in the name of the corporation by any person authorized so to do by the Board.

20. Indemnity.

Each member of the Board and any person exercising any powers or duties in relation to the Church property under this Act, and his executors and administrators, is entitled to be indemnified out of Church property against all expenses or liabilities incurred by him in connexion with the performance by him of any such power or duty.

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21. Schemes of co-operation.

(1) Where the Assembly resolves that the Church shall enter into a scheme of co-operation with or involving a Church of another denomination the corporation may, for the purpose of such scheme and for so long as it continues—

- (a) permit any Church property to be used, managed or administered for the purposes of the scheme in such manner as the Board thinks proper or otherwise as the Assembly directs; and
- (b) join with any such other Church in acquiring the absolute or any limited interest in any property required for the purposes of any such scheme, and—
 - (i) hold it as co-owner with or otherwise in conjunction with the other Church in such manner as is mutually agreed between them; and
 - (ii) do all such acts and enter into and complete all such contracts, transfers, leases, deeds or other documents or instruments as are necessary or desirable to give effect to the acquisition; and
- (c) be a member of any association or organization of Churches or Church representatives, or of other bodies (incorporated or unincorporated) the object or one of the objects of which is the acquiring, holding, using, managing or administering land or other property for the purposes of any such scheme.

(2) The power conferred by Subsection (1)(a) is not exercisable in respect of any Church property that is subject to a condition or other provision that expressly prohibits its use otherwise than solely for the purposes of the Church, but the fact that a condition or provision required any such property to be used in worship services of the Church or for purposes of the Church shall not, in itself, be deemed to subject that property to a condition or provision that it be used solely for the purposes of the Church.

